

Remarks

Claims 1-14 and 16-21 were previously pending. Reconsideration of presently pending claims 1-14 and 16-21 is respectfully requested in light of the following remarks. This paper does not amend any of the claims in the application. Therefore this paper does not raise new issues and does not necessitate the undertaking of any additional search by the Examiner. Therefore, this response should allow immediate action by the Examiner.

Rejections under 35 U.S.C. § 102

Claims 1-4 and 16-18 were rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 5,913,859 to Shapira ("Shapira").

As set forth at MPEP §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." With respect to the claims as herein presented, this rejection is respectfully traversed.

Presently presented claim 1 requires:

A surgical instrument for the dissection of bone or other tissue having a motor with a power output, the surgical instrument comprising:

 a dissection tool having an elongated shaft with a dissection area disposed adjacent a distal end and a coupling area disposed adjacent a proximal end;

 a coupling assembly configured for coupling the power output to said coupling area of said tool; and

 an angled attachment tube having a proximal portion for coupling to said coupling assembly and an internal passage extending from said proximal portion to an opposite distal portion, the attachment tube positioned along at least a portion of said elongated shaft and substantially supporting a portion of said elongated shaft disposed adjacent said dissection area, said internal passage including a longitudinal curved portion disposed between said proximal portion and said distal portion, said angled attachment tube supporting said elongated shaft in a longitudinally curved configuration corresponding to said curved portion,

 wherein said attachment tube is movably coupled to said coupling assembly.

With respect to independent claim 1, Shapira at least fails to disclose "a dissection tool having an elongated shaft . . . [and an] angled attachment tube supporting said *elongated shaft in a longitudinally curved configuration* corresponding to said curved portion" (emphasis added).

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to the tool. By contrast, Shapira discloses a coupling assembly (drive gear 44) being movably coupled to the attachment tube (housing 17). This is the opposite of that claimed. Therefore, Shapira does not include the limitation of “an angled attachment tube having a proximal portion for coupling to said coupling assembly . . . wherein said attachment tube is movably coupled to said coupling assembly,” as required by Applicants’ previously presented claim 1.

With further respect to independent claim 1, Shapira at least fails to disclose a dissection tool having “a dissection area disposed adjacent a distal end” and an “attachment tube . . . substantially supporting a portion of said elongated shaft disposed adjacent said dissection area.” As seen in Fig. 2, Shapira shows a housing 17 having a cavity 26 with a hollow shaft 29 disposed therein where the hollow shaft 29 receives a burr 38 used for dissection. The Final Office Action states that Shapira discloses, “[an] attachment tube positioned along at least a portion of said elongated shaft (Fig. 2) and substantially supporting a portion of said elongated shaft disposed adjacent said dissection area (Fig. 2) . . .” (Final Office Action, p.2). However, there is no indication in Fig. 2 or the accompanying description of Shapira of the housing 17 substantially supporting a distal portion of hollow shaft 29 adjacent the dissection area. Instead, it appears from Fig. 2 that hollow shaft 29 is only supported *proximally* by housing 17 adjacent the drive gear 44. Therefore, Shapira does not include the limitation of a dissection tool having “a dissection area disposed adjacent a distal end” and an “attachment tube . . . substantially supporting a portion of said elongated shaft disposed adjacent said dissection area,” as required by Applicants’ previously presented claim 1.

Therefore, for at least these reasons it is respectfully submitted that the §102(b) rejection of claim 1 is not supported by the reference, and should be withdrawn. Claims 2-4 and 16-18 should be allowable as well since they depend from and further limit claim 1. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-4 and 16-18.

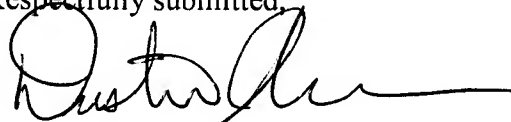
Rejections under 35 U.S.C. § 103

Claims 5, 6, and 19-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shapira. Claims 7-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shapira in view of Tidwell et al. (US Patent No. 5,989,257). Claims 12-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shapira in view of Tidwell et al. (US Patent No. 5,989,257) in view of Wright (US Patent No. 5,340,129). These rejections are respectfully traversed. As established above, Shapira does not disclose all of the limitations of claim 1. Further, the combination of Tidwell and Wright does not affect this deficiency. Accordingly, even when combined the references fail to disclose all of the recited elements of independent claim 1. Claims 5-14 and 19-21 depend from and further limit independent claim 1 and therefore should be patentable over the cited references.

Conclusion

A notice of allowance of claims 1-14 and 16-21 is respectfully requested. The Office Action contains characterizations of the claims and the related art to which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in this or any other Office Action. If the Examiner believes a telephone conversation would be useful for advancing prosecution of this application, he is invited to telephone the undersigned at the number below. Deposit Account Number 08-1394 can be used for any over payments or under payments.

Respectfully submitted,



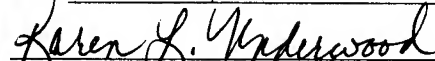
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I hereby certify that this correspondence is being filed with
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on the following date.

Date: December 21, 2007


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